

MONTANA LEGISLATIVE HISTORY

Chapter 31 19 89

Bill H 4 S _____ Original bill & history C

H. Committee on Taxation

S. Committee on Taxation

Hearing Date(s) Jan 12 ☒ C

Hearing Date(s) Feb 01 ☒ C

Jan 20 ☒ C

Feb 03 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Date Out Jan 20 ☒ C

Feb 03 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

HOUSE FINAL STATUS

3/09 COMMITTEE REPORT--BILL CONCURRED
 3/10 2ND READING CONCURRED 49 0
 3/13 3RD READING CONCURRED 41 0
 RETURNED TO HOUSE
 3/21 SIGNED BY SPEAKER
 3/21 SIGNED BY PRESIDENT
 3/22 TRANSMITTED TO GOVERNOR
 3/27 SIGNED BY GOVERNOR
 CHAPTER NUMBER 317 EFFECTIVE DATE: 3/27/89

HB 3 INTRODUCED BY HARRINGTON
LICENSE GASOLINE EXPORTERS

12/27 FISCAL NOTE REQUESTED
 1/02 INTRODUCED
 1/02 REFERRED TO TAXATION
 1/05 FISCAL NOTE RECEIVED
 1/05 FISCAL NOTE PRINTED
 1/06 HEARING
 1/06 COMMITTEE REPORT--BILL PASSED
 1/07 2ND READING PASSED 96 0
 1/10 3RD READING PASSED 99 0
 TRANSMITTED TO SENATE
 1/13 REFERRED TO BUSINESS & INDUSTRY
 1/19 HEARING
 1/20 COMMITTEE REPORT--BILL CONCURRED AS AMENDED
 1/23 2ND READING CONCURRED 50 0
 1/25 3RD READING CONCURRED 50 0
 RETURNED TO HOUSE WITH AMENDMENTS
 1/28 2ND READING AMENDMENTS CONCURRED 91 1
 1/31 3RD READING AMENDMENTS CONCURRED 97 0
 2/04 SIGNED BY SPEAKER
 2/06 SIGNED BY PRESIDENT
 2/06 TRANSMITTED TO GOVERNOR
 2/10 SIGNED BY GOVERNOR
 CHAPTER NUMBER 8
 EFFECTIVE DATE: 02/10/89 (S7, 10)
 EFFECTIVE DATE: 10/01/89 (S1-6, 8, 9)

HB 4 INTRODUCED BY HANSON, M.
CLARIFY THE RATE OF SEVERANCE TAX ON CERTAIN COAL
BY REQUEST OF COAL TAX OVERSIGHT SUBCOMMITTEE

12/27 FISCAL NOTE REQUESTED
 1/02 INTRODUCED
 1/02 REFERRED TO TAXATION
 1/09 FISCAL NOTE RECEIVED
 1/10 FISCAL NOTE PRINTED
 1/12 HEARING
 1/20 COMMITTEE REPORT--BILL PASSED AS AMENDED
 1/23 2ND READING PASSED 69 30
 1/25 3RD READING PASSED 71 26
 TRANSMITTED TO SENATE
 1/26 REFERRED TO TAXATION
 2/01 HEARING

HOUSE FINAL STATUS

2/03 COMMITTEE REPORT--BILL CONCURRED
 2/07 2ND READING CONCURRED 39 6
 2/09 3RD READING CONCURRED 48 2
 RETURNED TO HOUSE
 2/17 SIGNED BY SPEAKER
 2/20 SIGNED BY PRESIDENT
 2/20 TRANSMITTED TO GOVERNOR
 2/24 SIGNED BY GOVERNOR
 CHAPTER NUMBER 31 EFFECTIVE DATE: 2/24/89

HB 5 INTRODUCED BY EUDAILY
CODE COMMISSIONER BILL
BY REQUEST OF CODE COMMISSIONER

1/02 INTRODUCED
 1/02 REFERRED TO STATE ADMINISTRATION
 1/09 HEARING
 1/10 COMMITTEE REPORT--BILL PASSED
 1/12 2ND READING PASSED 96 0
 1/14 3RD READING PASSED 96 0
 TRANSMITTED TO SENATE
 1/16 REFERRED TO JUDICIARY
 2/28 HEARING
 2/28 COMMITTEE REPORT--BILL CONCURRED
 3/02 2ND READING CONCURRED 47 0
 3/04 3RD READING CONCURRED 45 0
 RETURNED TO HOUSE
 3/08 SIGNED BY SPEAKER
 3/08 SIGNED BY PRESIDENT
 3/09 TRANSMITTED TO GOVERNOR
 3/14 SIGNED BY GOVERNOR
 CHAPTER NUMBER 83 EFFECTIVE DATE: 10/01/89

HB 6 INTRODUCED BY PAVLOVICH
REQUIRE TEMPORARY MOTORBOAT PERMIT FOR MOTORBOAT
IF FROM STATE REQUIRING SIMILAR PERMIT

12/27 FISCAL NOTE REQUESTED
 1/02 INTRODUCED
 1/02 REFERRED TO FISH & GAME
 1/05 HEARING
 1/09 FISCAL NOTE RECEIVED
 1/09 FISCAL NOTE PRINTED
 2/14 TABLED IN COMMITTEE

HB 7 INTRODUCED BY PECK, ET AL.
REGULATE MOTORBOAT OPERATION IN AREA OF UNDERWATER
DIVING, PROVIDE PENALTY

1/02 INTRODUCED
 1/02 REFERRED TO FISH & GAME
 1/03 HEARING
 1/05 HEARING
 1/06 COMMITTEE REPORT--BILL PASSED AS AMENDED
 1/09 2ND READING PASSED AS AMENDED 96 4
 1/11 3RD READING PASSED 89 5

January 23, 1989

Grinde, Guthrie, Hannah, Hansen, Hanson, Harper, Harrington, Hayne, Hoffman, Iverson, Johnson, Kasten, Keller, Kilpatrick, Kimberley, Knapp, Koehnke, Lee, McCormick, McDonough, Menahan, Mercer, Moore, L. Nelson, R. Nelson, T. Nelson, Nisbet, O'Connell, O'Keefe, Owens, Pavlovich, Peck, Peterson, Phillips, Quilici, Ramirez, Raney, Ream, Rehberg, Rice, Roth, Russell, Schye, Simon, Simpkins, Smith, Spaeth, Spring, Squires, Stang, Stepler, Stickney, Strizich, Swift, Thoft, Thomas, Wallin, Westlake, Whalen, Wyatt, Zook, Mr. Speaker.

Total 94

Noes: Marks, Swysgood.

Total 2

Excused: Driscoll, Gould, Patterson.

Total 3

Absent or not voting: Kadas.

Total 1

HB 175 - Representative Hansen moved HB 175 do pass. Motion carried as follows:

Ayes: Aafedt, Addy, Bachini, Bardanouve, Blotkamp, Bradley, Brooke, D. Brown, J. Brown, Clark, Cocchiarella, Cody, Cohen, Compton, Connelly, Daily, Darko, Davis, DeBruycker, DeMars, Elliott, Eudaily, Giacometto, Good, Grady, Grinde, Guthrie, Hansen, Hanson, Harper, Harrington, Hayne, Hoffman, Iverson, Johnson, Kadas, Keller, Kilpatrick, Kimberley, Knapp, Koehnke, Lee, Marks, McCormick, McDonough, Menahan, Moore, L. Nelson, R. Nelson, T. Nelson, Nisbet, O'Keefe, Owens, Pavlovich, Peck, Peterson, Quilici, Ramirez, Raney, Ream, Rehberg, Rice, Roth, Russell, Schye, Simpkins, Smith, Spaeth, Spring, Squires, Stang, Stepler, Stickney, Strizich, Swift, Wallin, Westlake, Whalen, Wyatt, Zook, Mr. Speaker.

Total 81

Noes: Boharski, Campbell, Cobb, Ellison, Gervais, Gilbert, Glaser, Hannah, Kasten, Mercer, O'Connell, Phillips, Simon, Swysgood, Thoft, Thomas.

Total 16

Excused: Driscoll, Gould, Patterson.

Total 3

Absent or not voting: None.

Total 0

HB 4 - Representative Hanson moved HB 4 do pass.

Representative Kadas made a substitute motion to revert to the body of the bill for purpose of amendment. Motion carried.

Representative Kadas moved HB 4, second reading copy, be amended. Amendment failed. (39-59)

Representative Hanson moved HB 4 do pass. Motion carried as follows:

Ayes: Aafedt, Bachini, Blotkamp, Boharski, D. Brown, J. Brown, Campbell, Clark, Cobb, Cody, Compton, Daily, DeBruycker, DeMars, Elliott, Ellison, Eudaily, Giacometto, Gilbert, Glaser, Good, Gould, Grady, Grinde, Guthrie, Hannah, Hanson, Harrington, Hayne, Hoffman, Iverson, Kasten, Keller, Knapp, Koehnke, Lee, Marks, McCormick, Menahan, Mercer, R. Nelson, T. Nelson, O'Connell, Owens, Patterson, Pavlovich, Peterson, Phillips, Quilici, Ramirez, Rehberg, Rice, Roth, Schye, Simon, Simpkins, Smith,

Spring, Stang, Steppler, Stickney, Swift, Swysgood, Thoft, Thomas, Wallin, Westlake, Wyatt, Zook.

Total 69

Noes: Addy, Bardanouve, Bradley, Brooke, Cocchiarella, Cohen, Connelly, Darko, Davis, Gervais, Hansen, Harper, Johnson, Kadas, Kilpatrick, Kimberley, McDonough, Moore, L. Nelson, Nisbet, O'Keefe, Peck, Raney, Ream, Russell, Spaeth, Squires, Strizich, Whalen, Mr. Speaker.

Total 30

Paired: Gould, Patterson, Ayes; Harper, Raney, Noes.

Excused: Driscoll.

Total 1

Absent or not voting: None.

Total 0

Representative Harper moved the committee rise and report. Motion carried. Committee arose. House resumed. Mr. Speaker in the Chair. Chairman Thomas moved the adoption of the committee report. Report adopted. (81-15)

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 60 passed as follows:

Ayes: Aafedt, Bachini, Blotkamp, Boharski, Bradley, Brooke, D. Brown, J. Brown, Campbell, Cocchiarella, Cody, Cohen, Compton, Connelly, Daily, Darko, DeMars, Elliott, Ellison, Eudaily, Gervais, Gilbert, Glaser, Good, Grady, Guthrie, Hansen, Harper, Harrington, Iverson, Johnson, Kadas, Kasten, Keller, Kimberley, Knapp, Koehnke, Lee, Marks, McCormick, McDonough, Menahan, Mercer, Moore, L. Nelson, T. Nelson, Nisbet, O'Connell, Owens, Pavlovich, Peterson, Quilici, Ramirez, Raney, Ream, Russell, Schye, Smith, Spring, Squires, Stang, Steppler, Stickney, Strizich, Swift, Thoft, Thomas, Wallin, Westlake, Whalen, Wyatt, Mr. Speaker.

Total 72

Noes: Addy, Bardanouve, Clark, Cobb, Davis, DeBruycker, Giacometto, Grinde, Hannah, Hanson, Hayne, Hoffman, R. Nelson, O'Keefe, Peck, Phillips, Rehberg, Rice, Roth, Simon, Simpkins, Spaeth, Swysgood, Zook.

Total 24

Excused: Driscoll, Gould, Patterson.

Total 3

Absent or not voting: Kilpatrick.

Total 1

HB 74 passed as follows:

Ayes: Aafedt, Addy, Bachini, Bardanouve, Blotkamp, Boharski, Bradley, Brooke, D. Brown, J. Brown, Campbell, Clark, Cobb, Cocchiarella, Cody, Cohen, Compton, Connelly, Daily, Darko, Davis, DeBruycker, DeMars, Elliott, Ellison, Eudaily, Gervais, Giacometto, Gilbert, Glaser, Good, Grady, Grinde, Guthrie, Hannah, Hansen, Hanson, Harper, Harrington, Hayne, Hoffman, Iverson, Johnson, Kadas, Kasten, Keller, Kilpatrick, Kimberley, Knapp, Koehnke, Lee, Marks, McCormick, McDonough, Menahan, Mercer, Moore, L. Nelson, R. Nelson, T. Nelson, Nisbet, O'Connell, O'Keefe.

9. Page 7, lines 16 and 17.

Following: "lodging" on line 16

Strike: "1" through "expenses" on line 17

10. Page 3, line 22.

Strike: "\$7"

Insert: "\$12"

And, as amended, do pass. Report adopted.

HB 219, do pass. Report adopted.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

HB 4 passed as follows:

Ayes: Aafedt, Bachini, Blotkamp, Boharski, D. Brown, J. Brown, Campbell, Clark, Cobb, Cody, Compton, Connelly, Daily, DeBruycker, DeMars, Driscoll, Ellison, Eudaily, Giacometto, Gilbert, Glaser, Good, Gould, Grady, Grinde, Guthrie, Hannah, Hanson, Harrington, Hayne, Hoffman, Iverson, Johnson, Kasten, Knapp, Lee, Marks, McCormick, Menahan, Mercer, L. Nelson, R. Nelson, T. Nelson, O'Connell, Owens, Patterson, Pavlovich, Peterson, Phillips, Quilici, Ramirez, Rehberg, Rice, Roth, Schye, Simon, Simpkins, Smith, Spaeth, Spring, Squires, Stang, Steppler, Swift, Swysgood, Thoft, Thomas, Wallin, Westlake, Wyatt, Zook.
Total 71

Noes: Addy, Bardanouve, Bradley, Brooke, Cocchiarella, Cohen, Darko, Davis, Elliott, Gervais, Hansen, Harper, Kadas, Kilpatrick, Kimberley, Moore, Nisbet, O'Keefe, Peck, Raney, Ream, Russell, Stickney, Strizich, Whalen, Mr. Speaker.
Total 26

Excused: Koehnke, McDonough.
Total 2

Absent or not voting: Keller.
Total 1

HB 21 passed as follows:

Ayes: Aafedt, Addy, Bachini, Bardanouve, Boharski, Bradley, D. Brown, J. Brown, Campbell, Clark, Cobb, Cocchiarella, Cody, Cohen, Compton, Connelly, Daily, Darko, Davis, DeBruycker, DeMars, Driscoll, Elliott, Ellison, Eudaily, Gervais, Gilbert, Glaser, Gould, Grady, Grinde, Guthrie, Hannah, Hansen, Hanson, Harper, Harrington, Hayne, Hoffman, Iverson, Johnson, Kadas, Keller, Kilpatrick, Kimberley, Knapp, Lee, Marks, McCormick, Menahan, Mercer, Moore, L. Nelson, R. Nelson, T. Nelson, Nisbet, O'Connell, O'Keefe, Owens, Patterson, Pavlovich, Peck, Peterson, Phillips, Quilici, Ramirez, Raney, Ream, Rehberg, Rice, Roth, Russell, Schye, Simon, Simpkins, Smith, Spaeth, Spring, Squires, Stang, Steppler, Stickney, Strizich, Swift, Swysgood, Thoft, Thomas, Wallin, Westlake, Whalen, Wyatt, Zook, Mr. Speaker.
Total 93

Noes: Brooke.
Total 1

Excused: Koehnke, McDonough.

Total 0

Excused: None.

Total 0

Absent or not voting: Blaylock, Halligan, Mazurek, Story.

Total 4

HB 4 - Senator Anderson moved that HB 4 be concurred in. Motion carried as follows:

Ayes: Abrams, Aklestad, Anderson, Beck, Bengtson, Bishop, Boylan, Brown, Crippen, Devlin, Farrell, Gage, Hager, Halligan, Hammond, Harding, Harp, Himsl, Hofman, Jacobson, Jenkins, Lynch, Mazurek, McLane, Meyer, Noble, Norman, Pinsoneault, Pipinich, Rasmussen, Severson, Stimatz, Thayer, Van Valkenburg, Walker, Weeding, Williams, Yellowtail, Mr. President.

Total 39

Noes: Eck, Jergeson, Manning, Rapp-Svrcek, Regan, Vaughn.

Total 6

Excused: None.

Total 0

Absent or not voting: Blaylock, Keating, Nathe, Story, Tveit.

Total 5

HB 38 - Senator Mazurek moved that HB 38 be concurred in. Motion carried unanimously, 50-0.

HB 64 - Senator Mazurek moved that HB 64 be concurred in. Motion carried unanimously, 50-0.

HB 146 - Senator Halligan requested that consideration of HB 146 be moved to the bottom of the second reading board. Without objection, request granted.

HB 195 - Senator Mazurek moved that HB 195 be concurred in. Motion carried unanimously, 50-0.

HB 199 - Senator Lynch moved that HB 199 be concurred in. Motion carried unanimously, 50-0.

HB 260 - Senator Crippen moved that HB 260 be concurred in. Motion carried 49-1; Nathe voting no.

HJR 2 - Senator Harp moved that HJR 2 be concurred in. Motion carried unanimously, 50-0.

HB 146 - Senator Halligan moved that HB 146 be concurred in. Motion carried as follows:

Ayes: Abrams, Aklestad, Anderson, Beck, Bengtson, Bishop, Blaylock, Boylan, Brown, Crippen, Devlin, Eck, Farrell, Gage, Hager, Halligan, Hammond, Himsl, Hofman, Jacobson, Jenkins, Jergeson, Keating, Lynch, Manning, McLane, Meyer, Nathe, Noble, Norman, Pinsoneault, Pipinich, Rapp-Svrcek, Rasmussen, Severson, Stimatz, Thayer, Van Valkenburg, Vaughn, Walker, Weeding, Williams, Mr. President.

Total 43

Noes: Harding, Mazurek, Regan, Tveit.

Total 4

SB 283 passed by the following vote:

Ayes: Abrams, Aklestad, Anderson, Beck, Bengtson, Bishop, Blaylock, Boylan, Brown, Crippen, Devlin, Eck, Farrell, Gage, Hager, Halligan, Hammond, Harding, Harp, Himsl, Hofman, Jacobson, Jenkins, Jergeson, Keating, Lynch, Manning, Mazurek, McLane, Meyer, Nathe, Noble, Norman, Pinsoneault, Pipinich, Rapp-Svrcek, Rasmussen, Regan, Severson, Stimatz, Story, Thayer, Tveit, Van Valkenburg, Vaughn, Walker, Weeding, Williams, Yellowtail, Mr. President.

Total 50

Noes: None.

Total 0

Excused: None.

Total 0

Absent or not voting: None.

Total 0

SB 293 passed by the following vote:

Ayes: Abrams, Aklestad, Anderson, Beck, Bengtson, Bishop, Blaylock, Boylan, Brown, Crippen, Devlin, Eck, Farrell, Gage, Hager, Halligan, Hammond, Harding, Harp, Himsl, Hofman, Jacobson, Jenkins, Jergeson, Keating, Lynch, Manning, Mazurek, McLane, Meyer, Nathe, Noble, Norman, Pinsoneault, Pipinich, Rapp-Svrcek, Rasmussen, Regan, Severson, Stimatz, Story, Thayer, Tveit, Van Valkenburg, Vaughn, Walker, Weeding, Williams, Yellowtail, Mr. President.

Total 50

Noes: None.

Total 0

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 4 concurred in by the following vote:

Ayes: Abrams, Aklestad, Anderson, Beck, Bengtson, Bishop, Blaylock, Boylan, Brown, Crippen, Devlin, Farrell, Gage, Hager, Halligan, Hammond, Harding, Harp, Himsl, Hofman, Jacobson, Jenkins, Jergeson, Keating, Lynch, Manning, Mazurek, McLane, Meyer, Nathe, Noble, Norman, Pinsoneault, Pipinich, Rasmussen, Regan, Severson, Stimatz, Story, Thayer, Tveit, Van Valkenburg, Vaughn, Walker, Weeding, Williams, Yellowtail, Mr. President.

Total 48

Noes: Eck, Rapp-Svrcek.

Total 2

Excused: None.

Total 0

Absent or not voting: None.

Total 0

HB 38 concurred in by the following vote:

Ayes: Abrams, Aklestad, Anderson, Beck, Bengtson, Bishop, Blaylock, Boylan, Brown, Crippen, Devlin, Eck, Farrell, Gage, Hager, Halligan, Hammond, Harding, Harp, Himsl, Hofman, Jacobson, Jenkins, Jergeson, Keating, Lynch, Manning, Mazurek, McLane, Meyer, Nathe, Noble, Norman, Pinsoneault, Pipinich, Rasmussen, Regan, Severson, Stimatz, Story, Thayer, Tveit, Van Valkenburg, Vaughn, Walker, Weeding, Williams, Yellowtail, Mr. President.

1 HOUSE BILL NO. 4
2 INTRODUCED BY D. BROWN
3 BY REQUEST OF THE COAL TAX OVERSIGHT SUBCOMMITTEE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE RATE OF
6 SEVERANCE TAX ON CERTAIN COAL; AMENDING SECTIONS 15-35-102,
7 15-35-103, AND 15-35-202, MCA; AND PROVIDING AN EFFECTIVE
8 DATE AND AN APPLICABILITY DATE."
9
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
11 **Section 1.** Section 15-35-102, MCA, is amended to read:
12 "15-35-102. Definitions. As used in this chapter, the
13 following definitions apply:
14 (1) "Agreement" means a signed contract that is valid
15 under Montana law between a coal mine operator and a
16 purchaser or broker for the sale of coal that is produced in
17 Montana.
18 (2) (a) "Base consumption level" for a purchaser,
19 except as provided in subsection (2)(b), applies only for
20 the term of an agreement in effect as of December 31, 1984,
21 and means the lesser of:
22 (i) the volume of coal purchased during calendar year
23 1986 from all Montana coal mine operators; or
24 (ii) the greater of:
25 (A) the arithmetic average volume of coal purchased

1 during calendar years 1983 and 1984 from all Montana coal
2 mine operators; or
3 (B) 90% of the maximum tonnage provided for in any
4 agreement executed prior to January 1, 1985, for which the
5 highest scheduled minimum quantity of coal stipulated by the
6 terms of the agreement as they existed on January 1, 1985,
7 has not been purchased at any time during the term of the
8 agreement, plus the arithmetic average volume of coal
9 purchased during calendar years 1983 and 1984 from all
10 Montana coal mine operators under all other agreements.
11 (b) If the volume calculated in subsection (2)(a)(i)
12 is less than one-third of the volume calculated in
13 subsection (2)(a)(ii), the base consumption level is the
14 volume calculated in subsection (2)(a)(ii).
15 (3) (a) Except as provided in subsection (3)(b), "base
16 production level" for a coal mine operator applies only for
17 the term of an agreement in effect as of December 31, 1984,
18 and means the lesser of:
19 (i) the arithmetic average volume of coal produced in
20 Montana and sold to a purchaser in calendar years 1983 and
21 1984; or
22 (ii) the volume of coal produced in Montana and sold to
23 a purchaser in 1986.
24 (b) If the amount calculated in subsection (3)(a)(ii)
25 is less than one-third of the amount calculated in

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subsection (3)(a)(i), the base production level is the amount calculated in subsection (3)(a)(i).

(4) "Broker" means any person who resells Montana coal.

(5) "Contract sales price" means either the price of coal extracted and prepared for shipment f.o.b. mine, excluding that amount charged by the seller to pay taxes paid on production, or a price imputed by the department under 15-35-107. Contract sales price includes all royalties paid on production, no matter how such royalties are calculated. However, with respect to royalties paid to the government of the United States, the state of Montana, or a federally recognized Indian tribe, the contract sales price includes only:

(a) for quarterly periods ending on and after September 30, 1984, 15 cents per ton plus 75% of the difference between 15 cents per ton and the amount of such federal, state, and tribal government royalties actually paid;

(b) for quarterly periods ending on and after September 30, 1985, 15 cents per ton plus 50% of the difference between 15 cents per ton and the amount of such federal, state, and tribal government royalties actually paid;

(c) for quarterly periods ending on and after

September 30, 1986, 15 cents per ton plus 25% of the difference between 15 cents per ton and the amount of such federal, state, and tribal government royalties actually paid; and

(d) for quarterly periods ending on and after September 30, 1987, 15 cents per ton.

(6) "Department" means the department of revenue.

(7) "Energy conversion process" includes any process by which coal in the solid state is transformed into slurry, gas, electric energy, or any other form of energy.

(8) "Incremental production" means that quantity of coal produced annually by a coal mine operator and sold to a qualified purchaser that exceeds the base production level of the coal mine operator for that purchaser, but only to the extent the quantity of coal exceeds that purchaser's base consumption level from all Montana producers..

(9) "Produced" means severed from the earth.

(10) "Purchaser" means a person who purchases or contracts to purchase Montana coal directly from a coal mine operator or indirectly from a broker and who utilizes that coal in any industrial, commercial, or energy conversion process. A coal broker or any other third party intermediary is not a purchaser under the provisions of this chapter.

(11) "Qualified purchaser" means a purchaser whose purchases of Montana coal in any given year exceed his base

1 consumption level. A purchaser of Montana coal who enters
2 into a coal agreement with another purchaser or a broker
3 that causes a reduction in the base consumption level of a
4 purchaser is not a qualified purchaser.

5 (12) "Strip mining" is defined in 82-4-203 and includes
6 "surface mining".

7 (13) "Taxes paid on production" includes any tax paid
8 to the federal, state, or local governments upon the
9 quantity of coal produced as a function of either the volume
10 or the value of production and does not include any tax upon
11 the value of mining equipment, machinery, or buildings and
12 lands, any tax upon a person's net income derived in whole
13 or in part from the sale of coal, or any license fee.

14 (14) "Ton" means 2,000 pounds.

15 (15) "Underground mining" means a coal mining method
16 utilizing shafts and tunnels and as further defined in
17 82-4-203."

18 Section 2. Section 15-35-103, MCA, is amended to read:

19 "15-35-103. Severance tax -- rates imposed --
20 exemptions. (1) Except-as-provided-in-subsection-(2) Subject
21 to the provisions of 15-35-202 allowing a new coal
22 production incentive tax credit, a severance tax is imposed
23 on each ton of coal produced in the state in accordance with
24 the following schedule:

25 (a)--Fiscal-Years-1988-and-1989-

1	Heating-quality	Surface--	Underground
2	{Btu-per-pound	Mining--	Mining---
3	---of-coal}:	--	
4	Under-77000	12-cents-or	5-cents-or
5	--	20%-of-value	3%-of-value
6	77000-87000	22-cents-or	8-cents-or
7	--	30%-of-value	4%-of-value
8	87000-97000	34-cents-or	10-cents-or
9	--	30%-of-value	4%-of-value
10	Over-97000	40-cents-or	12-cents-or
11	--	30%-of-value	4%-of-value
12	{b)--Fiscal-Year-1990-		
13	Heating-quality	Surface--	Underground
14	{Btu-per-pound	Mining--	Mining---
15	---of-coal}:	--	
16	Under-77000	12-cents-or	5-cents-or
17		13%-of-value	3%-of-value
18	77000-87000	22-cents-or	8-cents-or
19		25%-of-value	4%-of-value
20	87000-97000	34-cents-or	10-cents-or
21		25%-of-value	4%-of-value
22	Over-97000	40-cents-or	12-cents-or
23		25%-of-value	4%-of-value
24	{c)--Fiscal-Year-1991-and-Thereafter-		
25	Heating quality	Surface--	Underground

1 {Btu-per-pound Mining-- Mining---

2 ---of-coal}: -

3 Under-7,000 12-cents-or 5-cents-or

4 13%-of-value 3%-of-value

5 7,000-8,000 22-cents-or 8-cents-or

6 20%-of-value 4%-of-value

7 8,000-9,000 34-cents-or 10-cents-or

8 20%-of-value 4%-of-value

9 Over-9,000 40-cents-or 12-cents-or

10 20%-of-value 4%-of-value

11 {2}--(a)--(i)--On--or--before--October---17---1988---the

12 department--shall-determine-the-total-number-of-tons-of-coal

13 produced-in-Montana-and-sold-from-July-17-1987-through-June

14 30,1988--If-the-department-finds-that--these--sales--exceed

15 32.2--million--tons--(which-is-the-average-total-yearly-coal

16 sales-for-calendar-years-1983,1984,1985--and--1986),--the

17 rate---of--the--coal--severance--tax--is--as--set--forth--in

18 subsections-{2}(b)-through-{2}(d):

19 {ii)--If-any-facility-that-burned-Montana--coal--at--any

20 time--from--July-17-1987-to-June-30,1988--does-not-operate

21 during-a-portion-of-that-period-due-to-mechanical-failure-or

22 catastrophic-act-of-God,--the-department-shall-determine--the

23 average-monthly-sales-of-Montana-coal-to-the-facility-during

24 its-operation-and-multiply-this-figure-by-12--The-department

25 shall--include-the-product-of-this-calculation-in-making-its

1 determination-of-coal-produced-in-Montana-and-sold-from-July

2 17-1987-through-June-30,1988:

3 (b)--The-severance-tax-imposed-pursuant--to--subsection

4 {2}(a)--on--each-ton-of-coal-produced-in-the-state-from-July

5 17-1987-through-June-30,1990--is:

6 (a) After June 30, 1988, and before July 1, 1990:

7 Heating quality Surface Underground

8 (Btu per pound Mining Mining

9 of coal):

10 Under 7,000 12-cents-or 5-cents-or

11 17% of value 2% of value

12 7,000-8,000 22-cents-or 8-cents-or

13 and over 25% of value 4% of value

14 8,000-9,000 34-cents-or 10-cents-or

15 25%-of-value 4%-of-value

16 Over-9,000 40-cents-or 12-cents-or

17 25%-of-value 4%-of-value

18 (c)--The-severance-tax-imposed-pursuant--to--subsection

19 {2}(a)--on--each-ton-of-coal-produced-in-the-state-from-July

20 17-1990-through-June-30,1991--is:

21 (b) After June 30, 1990, and before July 1, 1991:

22 Heating quality Surface Underground

23 (Btu per pound Mining Mining

24 of coal):

25 Under 7,000 12-cents-or 5-cents-or

1		13% of value	3% of value
2	7,000-87,000	22-cents-or	8-cents-or
3	and over	20% of value	4% of value
4	87,000-97,000	34-cents-or	10-cents-or
5		20%-of-value	4%-of-value
6	Over-97,000	40-cents-or	12-cents-or
7		20%-of-value	4%-of-value
8	(d) -- The severance tax imposed pursuant to subsection		
9	(2)(a) -- on each ton of coal produced in the state after June		
10	307-19917- is:		
11	(c) After June 30, 1991:		
12	Heating quality	Surface	Underground
13	(Btu per pound	Mining	Mining
14	of coal):		
15	Under 7,000	12-cents-or	5-cents-or
16		13% 10% of value	3% of value
17	7,000-87,000	22-cents-or	8-cents-or
18	and over	15% of value	4% of value
19	87,000-97,000	34-cents-or	10-cents-or
20		15%-of-value	4%-of-value
21	Over-97,000	40-cents-or	12-cents-or
22		15%-of-value	4%-of-value
23	(3)(2) "Value" means the contract sales price.		
24	(4)(3) The formula which yields the greater amount of		
25	tax in a particular case shall be used at each point on		

1 these schedules.

2 (5)(4) A person is not liable for any severance tax
3 upon 50,000 tons of the coal he produces in a calendar year,
4 except that if he produces more than 50,000 tons of coal in
5 a calendar year, he will be liable for severance tax upon
6 all coal produced in excess of the first 20,000 tons.

7 (6)(5) A new coal production incentive tax credit may
8 be claimed on certain coal as provided in 15-35-202."

9 **Section 3.** Section 15-35-202, MCA, is amended to read:

10 "15-35-202. New coal production incentive tax credit
11 allowed -- application limited. (1) A coal mine operator is
12 entitled to a new coal production incentive tax credit
13 against the tax imposed under 15-35-103 of:

14 (a) 33-1/3% -- for -- incremental -- production -- sold during
15 calendar years 1985 and 1986;

16 (b) -- 50% -- for -- incremental -- production -- sold -- from -- January
17 17-1987 -- until -- June -- 30 -- 1988 -- and

18 (c) 40% for incremental production sold from July 17,
19 1988, until June 30 after June 30, 1988, and before July 1,
20 1990; and provided, however, that if the production quota
21 established in 15-35-103(2)(a)(i) is not met, the tax credit
22 for this period is 50% for fiscal year 1989 and 40% for
23 fiscal year 1990.

24 (b) 25% for incremental production sold after June 30,
25 1990, and before July 1, 1991.

1 (2) ~~{a}~~ A coal mine operator is entitled to a new coal
2 production incentive tax credit against the tax imposed
3 under 15-35-103 on incremental production for the entire
4 term of an agreement, except as provided in subsection (3),
5 and is entitled to adjustment of the base consumption level
6 and the base production level, as defined in 15-35-102, if
7 the incremental production resulted from coal purchases
8 under:

9 ~~{i}{a}~~ an existing agreement which was extended
10 between--January--17--1985--and--December--31--1988 after
11 December 31, 1984, and before July 1, 1990, for at least a
12 5-year period; or

13 ~~{i}{b}~~ a new agreement that was executed between
14 January--17--1985--and--December--31--1988 after December 31,
15 1984, and before July 1, 1990.

16 ~~{b}--The-rate-of-credit-allowed-under-subsection-(2){a}~~
17 ~~is:~~

18 ~~{i}--33-1/3%--for--incremental--production--sold---from~~
19 ~~January-17-1985-until-December-31-1986;~~

20 ~~{ii}--50%--for--any--incremental--production--sold--from~~
21 ~~January-17-1987-until-June-30-1988;~~

22 ~~{iii}--40%--for--any--incremental--production--sold--from--July~~
23 ~~17-1988-until-June-30-1990--However--if--the--production~~
24 ~~quota--established-in-15-35-103(2){a}{i}--is--not--met--the--tax~~
25 ~~credit--for--this--period--is--50%--for--fiscal--year--1989--and--40%~~

1 ~~for-fiscal-year-1990-~~

2 ~~{iv}--25%--for--any--incremental--production--sold--from--July~~
3 ~~17-1990-until-June-30-1991--and~~

4 ~~{v}--25%--after--June-30-1991--if--the--production--quota~~
5 ~~in-15-35-103(2){a}{i}--has--not--been--met-~~

6 (3) No credit may be claimed for coal produced prior
7 to January 1, 1985."

8 Section 4. Extension of authority. Any existing
9 authority to make rules on the subject of the provisions of
10 [this act] is extended to the provisions of [this act].

11 Section 5. Saving clause. [This act] does not affect
12 rights and duties that matured, penalties that were
13 incurred, or proceedings that were begun before [the
14 effective date of this act].

15 Section 6. Effective date -- applicability. [This act]
16 is effective July 1, 1989, and applies to payments of
17 severance tax that are due and payable after June 30, 1989,
18 on coal mined after March 31, 1989.

-End-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Harrington, on January 12, 1989,
at 9:00 a.m.

ROLL CALL

Members Present: 17

Members Excused: 1

Members Absent: None

Staff Present: Dave Bohyer, Legislative Council

Announcements/Discussion: Please sign the visitor's
register.

HEARING ON HOUSE BILL 4

Presentation and Opening Statement by Sponsor: Rep. Marian Hanson, District 100, stated the bill need an amendment due to a drafting error. (Copy attached). This changes the date from 1990 to 1991 on page 11, lines 11 and 15. Rep. Dave Brown allowed Rep. Hanson to sponsor this bill since it is primarily to clarify language from her HB 252 which was passed in the last legislature and amended by the governor. The bill originated with the Coal Tax Oversight Committee. HB 4 also addresses the oversight of the lignite coal on page 8, beginning on line 21 and continuing through page 9, lines 15 and 16. This reduces the 13% to 10% on the last year of the biennium.

List of Testifying Proponents and What Group They Represent:

James D. Mockler, Executive Director of the Montana Coal Council
Tom Asay, Concerned Citizen, Former Chairman of the Coal Tax Oversight Committee
Senator John Anderson, District 37
Bill Connors, Director of Coal Sales, Western Energy Company, Butte

Testifying Opponents and What Group They Represent:

Rock Ringling, Montana Alliance for Progressive Policy

Testimony:

James Mockler spoke in support of the bill. (Exhibit 1).

Tom Asay discussed the response the coal industry has given to the action taken in the last session. The coal industries had their greatest production increase in the last year. Over 200 people in his area returned to work. Prior to this action, HB 252, there was a continual reduction in coal production, continual layoffs. This has now turned around. Coal is a very competitively priced product but the only reduction in price was brought about by the miners taking a cut in pay and the coal companies reducing their profit from the coal voluntarily. The average price is \$6.00/ton compared to \$8.00/ton previously. This indicates the significance of the effect on the price of coal. The State of Montana has a right to expect proper performance by any industry but that right carries the obligation to clearly state what is expected of industry and what rules govern the industry's operations. This bill's primary function is to make it clear how coal is to be taxed.

Senator John Anderson has served on the Coal Oversight Subcommittee the last four years. He recognized the need for clarification and urges support of the bill.

Bill Connors' company owns and operates the Rosebud Mine near Colstrip, Montana. HB 252 worked out very well in 1988. Business has increased and he has a new three year agreement for up to 600,000 tons of coal. Another four agreements have been extended. The bill has helped other producers as well. NERCO shipped 50,000 tons of coal to Japan. He urges a DO PASS on the bill.

Rock Ringling spoke in opposition to the bill. He objects to tax breaks that remove revenue from the State of Montana. He stated that HB 4 has little effect on the coming biennium but may have major impact on the future. Therefore, he believes this bill should be on hold until that time when an accurate account of the state revenues are determined.

Ken Nortveldt, Department of Revenue, made the following comments regarding the fiscal impact statement. In 1991 and 1993, the 1.1 million dollar cost is a one time impact. His department tried to make no assumptions of possible production impact of HB 4. If

If the bill generates no change in production, there is no change in the fiscal impact but if it does, then the state could lose revenue. Technical point: Page 11, Subsection line 1 to 8, the rate of credit is not clearly stated. Mr. Nortveldt did not speak in favor or against the bill but merely made technical comments only.

Questions From Committee Members: Rep. Patterson noted that on the fiscal note, under assumption 3, it states only one coal mine is affected by this rate. He asked Mr. Mockler where this coal mine was located. Mr. Mockler replied that it was Western Energy. At least, this is the only one he is aware of but there may be other small contractors involved.

Ken Williams, Manager of Government Affairs for Intech wished to answer the question by Rep. Patterson. He stated the fiscal note is referring to the Ninth River Lignite Coal Mine owned by Savage, no Western Energy.

Chairman Harrington asked Mr. Mockler what his general comment would be on the fiscal note. Mr. Mockler replied that he was sure this will be a positive impact of approximately 5 million tons.

Rep. Raney stated he was opposed to HB 252 since it was sold to the people on the grounds of creating more jobs. He asked Mr. Mockler how many workers are there in the coal mines of Montana. Mr. Mockler replied approximately 1200. Rep. Raney then stated that Mr. Asay 200 people returned to work at 39 million tons of production. He asked Mr. Mockler if there would be 39 million tons produced this year. Mr. Mockler replied that he hoped there would be. He stated there is 34 million now under long term contract and there is well over 1,000 jobs in mining but not all in Montana.

Rep. Ream asked Mr. Mockler if there would be a 4 to 5 million increase beyond the 34 million. Mr. Mockler replied he could not make promises on this but he is hopeful.

Rep. Ream asked Mr. Nortveldt if his department was assuming the 34 million ton production on the fiscal note. Mr. Nortveldt responded that he did not know what was assumed. The department was assuming no change in production over the past year. Mr. Mockler commented that the figures used were based on the 34 million tons.

Rep. Raney asked Mr. Connors about shipping coal

through Wyoming to Georgia. Since Wyoming sells coal cheaper than Montana, how could this be done. Mr. Connors replied that NERCO ships this coal and their quality is much better than Wyoming coal.

Mr. Asay commented that these were average figures quoted. He stated it is necessary to look at the long term and what the future will bring. There is technology available today for cleaner burning but this takes a lot of money. Montana has a vast resource that can be a valuable asset.

Rep. Giacometto asked Rep. Dave Brown, who was present at the hearing, to comment. Rep. Brown stated he wanted to be recorded as a proponent to the bill.

Rep. Ream referred to the bottom of page 10, the mechanism by which the revenue is decreased. He asked Mr. Mockler where is the mechanism that causes the reduction. Mr. Mockler replied that the last two lines on page 10 refer to this. Credit is extended through 1988 to June 1990. The severance tax drops 20%, then 15% between 1990 and 1991. Because the tax decreases, these percentages change in order to still arrive at the 15% tax ultimately.

Rep. Raney stated that Mr. Asay referred to the long term in the coal industry. He asked Mr. Mockler what the industry was doing for research in this area. Mr. Mockler replied this was limited to one company, Western Energy, but they were doing extensive research. The Federal Government also funds research in the millions and Western has applied for these monies.

Rep. Koehnke alluded to the new technology, asking Mr. Mockler if this would not help the competition also. Mr. Mockler stated it would and that it may help midwestern coal more than Montana.

Rep. Ream referred Mr. Mockler to pages 8 and 9, the collapsing energy categories reduced to two. Mr. Mockler responded that this was to clarify the act so as to not list all the energy categories when the rates are identical. Rep. Ream referring to the top of page 8, stated that June 30, 1988, was the retroactive date. Is there any problem with this. Mr. Mockler replied that the line was simply changed to say after June 30. It is virtually the same thing.

Closing by Sponsor: Rep. Hanson stated the bill is basically a cleanup of the effects of the governor's amendments from last session. She urged a DO PASS.

DISPOSITION OF HOUSE BILL 4

Motion: None

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

HEARING ON HOUSE BILL 53

Presentation and Opening Statement by Sponsor: Rep. Jack Ramirez stated HB 53 was requested by the Department of Revenue. The DOR did not finish their reappraisal in the five years allotted. They need an extension of two years. If this is not extended and if it is to be completed on time, it will require 1.9 million in additional funds which is not currently available. The fiscal analyst estimates a 1.9 million dollar cost for the cycle extension. The figure is the cost of reappraisal employees, etc. for the additional two years. The cost is the same. The best course is to extend the time.

List of Testifying Proponents and What Group They Represent:

Ken Nortveltdt, Director, Department of Revenue
Dennis Burr, Montana Taxpayer's Association

List of Testifying Opponents and What Group They Represent:

None.

Testimony:

Ken Nortveltdt stated that with present resources, it is impossible for the department to finish the reappraisals within five years. There were employment difficulties during 1986 and 1987, with layoffs in 1986. In 1987, there were more reductions resulting in an increased workload with reduced staff. HB 436 concerned the sales assessment ratio studies but funds were not adequate for this project although it had to be done. A new computer assisted appraisal system has been developed which will increase appraisal efficiency when it is in place by July of 1989. When a good appraisal system is in effect, extensions will no longer be needed, but for now, it is necessary. He

DAILY ROLL CALL

TAXATION

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date January 12, 1989

NAME	PRESENT	ABSENT	EXCUSED
Harrington, Dan, Chairman	✓		
Ream, Bob, Vice Chairman	✓		
Cohen, Ben	✓		
Driscoll, Jerry			✓
Elliott, Jim	✓		
Koehnke, Francis	✓		
O'Keefe, Mark	✓		
Raney, Bob	✓		
Schye, Ted	✓		
Stang, Barry	✓		
Ellison, Orval	✓		
Giacometto, Leo	✓		
Gilbert, Bob	✓		
Good, Susan	✓		
Hanson, Marian	✓		
Hoffman, Robert	✓		
Patterson, John	✓		
Rehberg, Dennis	✓		



406-442-6223

2301 COLONIAL DRIVE · HELENA, MONTANA 59601

EXHIBIT 1
DATE 1/12/89
HB 4
Rep. M. Hoar

MONTANA COAL COUNCIL

JANUARY 12, 1989
HOUSE TAXATION COMM.

HB 4

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I AM JAMES D. MOCKLER, EXECUTIVE DIRECTOR OF THE MONTANA COAL COUNCIL, 2301 COLONIAL DRIVE, HELENA.

FIRST, I WOULD LIKE TO THANK THE COAL TAX OVERSIGHT SUBCOMMITTEE FOR ITS WORK IN THE INTERIM THAT RESULTED IN THIS BILL.

THE BILL BASICALLY CONTINUES THE INCENTIVE PROGRAM THAT THE LEGISLATURE ADOPTED LAST SESSION AS THE THEN-HB-252 WOUND THROUGH THE PROCESS AND WAS ULTIMATELY EXTENSIVELY AMENDED BY THE GOVERNOR. THOSE AMENDMENTS LIMITED THE TIME FOR NEW AND EXPANDED PRODUCTION TO JANUARY 1 OF THIS YEAR, AND ALTHOUGH AT THE TIME APPEARED TO INCLUDE CONTRACT RENEWALS, A TECHNICAL POINT APPEARS TO ELIMINATE THEM.

LET US TAKE A MOMENT TO EXAMINE THE RESULTS OF YOUR ACTIONS IN PROVIDING NOT ONLY THE LOWERING OF THE TAX, BUT ALSO IN PROVIDING THAT NEW AND EXPANDED BUSINESS BE TAXED AT AN INCENTIVE RATE OF 15%.

WE HAD FORECAST 1988 PRODUCTION TO BE AT 28 MILLION TONS. BECAUSE OF YOUR ACTIONS, 1988 PRODUCTION EXCEEDED 39 MILLION TONS. NOT ONLY WAS IT A RECORD BY SOME 5 MILLION TONS BUT IT

THE MODES THAT WERE INTENDED

DATE 11/2/87
HB 4
Rep. M. Hanson

IN 1987.

NOT ONLY DID THAT PUT OUR MINERS BACK TO WORK AND PROVIDE SCORES OF ADDITIONAL JOBS FOR THE RAILROAD AND SUPPLY SECTORS, BUT IT PROVIDED OVER \$10 MILLION IN ADDITIONAL SEVERANCE TAXES, \$3.5 MILLION IN GROSS PROCEEDS, AND OVER \$300,000 IN RITT TAXES.

REP. HANSON'S BILL BEFORE YOU HAS A FISCAL NOTE INDICATING A FISCAL IMPACT WHICH WHILE PALE IN COMPARISON WITH THE FISCAL NOTE ON HB 252. NEVERTHELESS IT IS SIGNIFICANT.

WE ASK THAT YOU CONSIDER THE FISCAL IMPACT OF THE INCREASED PRODUCTION THAT WAS RECEIVED WITH THE INCENTIVE PROGRAM AND TO CONTINUE THAT SUCCESSFUL PROGRAM. IF WE ARE ABLE TO CONTINUE IN NEW MARKETS, THE FISCAL IMPACT SHOULD AGAIN BE POSITIVE.

THE COAL MARKET IS EXTREMELY COMPETITIVE AND VOLATILE, BUT FOR THE FIRST TIME IN THE OVER 12 YEARS THAT I HAVE BEEN REPRESENTING THE INDUSTRY, THE INDICATORS FOR BROADENED NEW MARKETS ARE POSITIVE AND EXCITING. BEFORE ANY MAJOR CUSTOMER WILL NEGOTIATE A LARGE CONTRACT FOR OUR COAL, THEY WILL TEST BURN THE COAL. IN THE PAST YEAR AND A HALF WE HAVE HAD TEST BURNS FROM TAIWAN TO SOUTH DAKOTA AND FROM WASHINGTON TO ONTARIO.

IT IS OUR, AND I BELIEVE YOUR, HOPE THAT THESE TESTS WILL LEAD TO SIGNIFICANT CONTRACTS. PLEASE ALLOW US TO CONTINUE TO DEVELOP THESE MARKETS FOR THE BENEFIT OF US ALL.

ALSO IN THE GOVERNOR'S AMENDMENTS TO HB 252 HE NEGLECTED TO LOWER THE TAX ON LIGNITE FROM 20% TO 10% IN 1991 AS THE LEGISLATURE HAD AGREED. TO MY KNOWLEDGE, THIS WAS A DRAFTING ERROR AND ONE WHICH WE ASK YOU NOW TO CORRECT.

IN CLOSING, ON BEHALF OF THOSE WHO OWN THE MINES, THOSE WHO WORK IN THEM, THOSE WHO HAUL THE COAL AND SUPPLY THE INDUSTRY,

EXHIBIT 1, Pg. 3
DATE 1/12/89
HB 4
Rep. M. Hanson

OUR SINCERE THANKS TO REP. HANSON AND ALL OF YOU FOR YOUR PAST
SUPPORT AND WE ASK THAT YOU CONTINUE BY SUPPORTING HB 4.

Montana Coal Council
Amendments to HB 4

Amendment
1/12/1989
HB 4
Rep. M. Hanson

Page 11, line 11: Following "before July 1,"
Delete "1990"
Insert "1991"

Page 11, line 15: Following "before July 1,"
Delete "1990"
Insert "1991"

VISITORS' REGISTER

TAXATION

COMMITTEE

BILL NO. HB 4

DATE January 12, 1989

SPONSOR Marian Hanson

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Amendments and Votes: None

Recommendation and Vote: None

EXECUTIVE SESSION

DISPOSITION OF HOUSE BILL 4:

MOTION: DO PASS by Rep. Hanson. DO PASS on amendments by Rep. Hanson.

DISCUSSION: Chairman Harrington asked Dave Bohyer about the proposed amendments by Rep. Hanson. Mr. Bohyer replied that the amendments as proposed by Rep. Hanson were fine and stated the effective date moves the provisions of the bill back to January 1, 1989 as opposed to July 1, 1989. This is necessary in order to take advantage of the governor's window of opportunity provision.

ACTION: DO PASS on the amendments carried by voice vote of the committee. DO PASS on the bill carried by roll call vote of 14 to 3. House Bill 4 PASSED AS AMENDED.

DISPOSITION OF HOUSE BILL 35:

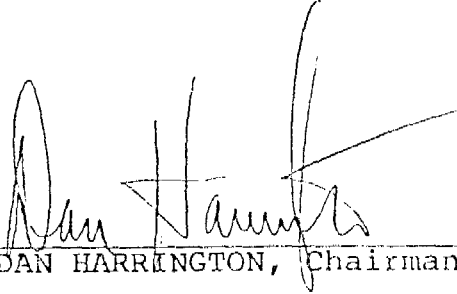
MOTION: TO TABLE by Rep. Driscoll.

DISCUSSION: Chairman Harrington stated there was work to be done on this particular bill and he wished to appoint a subcommittee for HB 35. He appointed Rep. Driscoll, Rep. O'Keefe, and Rep. Patterson to this subcommittee and requested they prepare amendments to submit to the committee.

Rep. Driscoll withdrew his motion TO TABLE.

ADJOURNMENT

Adjournment At: 10:05 a.m.



REP. DAN HARRINGTON, Chairman

DH/lj

1715.min

DAILY ROLL CALL

TAXATION

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date January 20, 1989

NAME	PRESENT	ABSENT	EXCUSED
Harrington, Dan, Chairman	✓		
Ream, Bob, Vice Chairman	✓		
Cohen, Ben	✓		
Driscoll, Jerry	✓		
Elliott, Jim	✓		
Koehnke, Francis	✓		
O'Keefe, Mark	✓		
Raney, Bob	✓		
Schye, Ted	✓		
Stang, Barry	✓		
Ellison, Orval			✓
Giacometto, Leo	✓		
Gilbert, Bob	✓		
Good, Susan	✓		
Hanson, Marian	✓		
Hoffman, Robert	✓		
Patterson, John	✓		
Rehberg, Dennis	✓		

STANDING COMMITTEE REPORT

January 20, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that House Bill 4 (first reading copy -- white) do pass as amended.

Signed: Dan Harrington
Dan Harrington, Chairman

And, that such amendments read:

1. Title, line 8.

Strike: "AN"

Insert: "A RETROACTIVE"

2. Page 11, line 11.

Strike: "1990"

Insert: "1991"

3. Page 11, line 15.

Strike: "1990"

Insert: "1991"

4. Page 12, line 15.

Following: "applicability."

Insert: "(1)"

5. Page 12, line 16.

Strike: "July 1, 1989,"

Insert: "on passage and approval"

6. Page 12, lines 16 through 18.

Following: "applies" on line 16

Strike: the remainder of line 16 through "1989" on line 18

Insert: "retroactively, within the meaning of 1-2-109, to January 1, 1989"

7. Page 12.

Following: line 18

Insert: "(2) [This act] applies to all coal severance tax revenue recorded on or after January 1, 1989, regardless of when the tax obligation accrued."

ROLL CALL VOTE

TAXATION

COMMITTEE

DATE 1/20/89

BILL NO. HB 4

NUMBER _____

NAME	AYE	NAY
Cohen, Ben		✓
Driscoll, Jerry	✓	
Elliott, Jim	✓	
Ellison, Orval		
Giacometto, Leo	✓	
Gilbert, Bob	✓	
Good, Susan	✓	
Hanson, Marian	✓	
Hoffman, Robert	✓	
Koehnke, Francis	✓	
O'Keefe, Mark	✓	
Patterson, John	✓	
Raney, Bob	✓	
Ream, Bob		✓
Rehberg, Dennis		✓
Schye, Ted	✓	
Stang, Barry "Spook"	✓	
Harrington, Dan, Chairman	✓	

TALLY

La Hane John
Secretary

14 3
Dan Harrington
Chairman

MOTION: MOTION TO DO PASS AS AMENDED by Rep. Hanson
carried.

MINUTES

MONTANA SENATE 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Bob Brown, on February 1, 1989,
at 8:00 a.m.

ROLL CALL

Members Present: Chairman Brown, Vice Chairman Hager,
Senator Bishop, Senator Crippen, Senator Eck, Senator
Gage, Senator Halligan, Senator Harp, Senator mazurek,
Senator Norman, Senator Severson, Senator Walker

Members Excused: None

Members Absent: None

Staff Present: Jeff Martin, Legislative Council Researcher
Jill Royhans, Committee Secretary

Announcements/Discussion: None

HEARING ON HOUSE BILL 4

Presentation and Opening Statement by Sponsor: Marian
Hanson, District 100, sponsor of the bill, said the
bill was introduced at the request of the Coal Tax
Oversight Subcommittee. The bill is essentially an
effort to clean up the language in House Bill 252,
which was extensively amended in the 1987 session. Due
to a drafting error the drop in the tax on lignite coal
from 20% to 10% was overlooked. This bill corrects
that situation. It also addresses the "window of
opportunity" which closed December 31, 1988, by
extending it to 1991 with a retroactive applicability
date.

List of Testifying Proponents and What Group they Represent:

James T. Mockler, Executive Director, Montana Coal
Council
Ken Williams, Entech, Western Energy Co.

List of Testifying Opponents and What Group They Represent:

None

Testimony:

James T. Mockler, Executive Director, Montana Coal Council, spoke in support of the bill (Exhibit 1).

Ken Williams, Entech, Western Energy Co., said the effects of HB 252 were very positive for the coal companies, resulting in a record production year in 1988 of 16.1 million tons and have resulted in at least another million tons of production. The bill will allow coal companies to continue to offer 15% coal to the market place.

Opponents:

None

Questions From Committee Members: There was a brief discussion which confirmed the changes in the bill were due to oversight and/or drafting error which were identified by the Coal Tax Oversight Subcommittee.

Closing by Sponsor: Representative Hanson closed by saying the legislation has enabled the coal companies to more than offset the incentives offered. This bill only cleans up the language and extends the window of opportunity to 1991.

HEARING ON SENATE BILL 220

Presentation and Opening Statement by Sponsor: Senator Tveit, District 11, sponsor of the bill, said he is carrying the bill at the request of the Montana Association of Counties. The bill allows a 5% discount on the second half of property taxes if the whole amount is paid on or before November 30. He pointed out there could be a potential problem with SID's, penalties and delinquent taxes which could be addressed by the attached amendment (Exhibit 2).

List of Testifying Proponents and What Group they Represent:

Bob Mullen, Richland County Commissioner
Dennis Burr, Montana Taxpayers Association

List of Testifying Opponents and What Group They Represent:

Chuck Stearns, Finance Officer/City Clerk
John Lawton, Assistant City Administrator
Alec Hanson, Montana League of Cities and Towns

Mr. Lawton felt the language was not clear regarding the payment of back taxes and whether the discount would apply to them. He felt it should only apply to the current taxes.

Senator Gage said there could be a rationale for applying the discount to back taxes in that it would establish an incentive to get the back taxes paid.

Mr. Lawton said a penalty against back taxes and a discount for paying them would effectively cancel each other out.

Senator Tveit said he would work with the committee researcher to amend the bill to lower the discount to 3% and apply the provisions of the bill to only second half property taxes.

Senator Brown asked what the discount rate is in Idaho.

Mr. Burr said it is a 5% discount on the entire tax bill in Idaho, and in most other states with the discount provision.

Closing by Sponsor:

EXECUTIVE SESSION ON HOUSE BILL 4

Discussion: Senator Crippen moved House Bill 4 BE CONCURRED IN.

Senator Walker said he gathered the bill was introduced to correct an oversight, but he should like to check it out a bit further before voting on it.

Senator Crippen withdrew his motion.

EXECUTIVE ACTION ON HOUSE BILL 92

Discussion: Senator Norman was concerned about defining "good cause".

Senator Mazurek said the Department has several pages of definitions of good cause, but this bill will entail defining good cause any in statute that is passed henceforth.

Senator Eck said there is another bill in the House which deals with elderly tax relief which seems to be the best vehicle for comprehensively addressing the

ROLL CALL

TAXATION

COMMITTEE

50th LEGISLATIVE SESSION -- 1989

Date 2/1/89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BROWN	X		
SENATOR BISHOP	X		
SENATOR CRIPPEN	X		
SENATOR ECK	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR HALLIGAN	X		
SENATOR HARP	X		
SENATOR MAZUREK	X		
SENATOR NORMAN	X		
SENATOR SEVERSON	X		
SENATOR WALKER	X		

Each day attach to minutes.



MONTANA COAL COUNCIL

406-442-6223

2301 COLONIAL DRIVE · HELENA, MONTANA 59601

FEBRUARY 1, 1989
SENATE TAXATION COMM.

HB 4

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I AM JAMES D. MOCKLER, EXECUTIVE DIRECTOR OF THE MONTANA COAL COUNCIL, 2301 COLONIAL DRIVE, HELENA.

FIRST, I WOULD LIKE TO THANK THE COAL TAX OVERSIGHT SUBCOMMITTEE FOR ITS WORK IN THE INTERIM THAT RESULTED IN THIS BILL.

THE BILL BASICALLY CONTINUES THE INCENTIVE PROGRAM THAT THE LEGISLATURE ADOPTED LAST SESSION AS THE THEN-HB-252 WOUND THROUGH THE PROCESS AND WAS ULTIMATELY EXTENSIVELY AMENDED BY THE GOVERNOR. THOSE AMENDMENTS LIMITED THE TIME FOR NEW AND EXPANDED PRODUCTION TO JANUARY 1 OF THIS YEAR, AND ALTHOUGH AT THE TIME APPEARED TO INCLUDE CONTRACT RENEWALS, A TECHNICAL POINT APPEARS TO ELIMINATE THEM.

LET US TAKE A MOMENT TO EXAMINE THE RESULTS OF YOUR ACTIONS IN PROVIDING NOT ONLY THE LOWERING OF THE TAX, BUT ALSO IN PROVIDING THAT NEW AND EXPANDED BUSINESS BE TAXED AT AN INCENTIVE RATE OF 15%.

WE HAD FORECAST 1988 PRODUCTION TO BE AT 28 MILLION TONS. BECAUSE OF YOUR ACTIONS, 1988 PRODUCTION WAS SLIGHTLY LESS THAN 39 MILLION TONS. NOT ONLY WAS IT A RECORD BY SOME 5 MILLION TONS

BUT IT EXCEEDED ALL OF OUR WILDEST DREAMS AND HOPES THAT WERE INTENDED IN 1987 WHEN YOU PASSED HB 252.

NOT ONLY DID THAT PUT OUR MINERS BACK TO WORK AND PROVIDE SCORES OF ADDITIONAL JOBS FOR THE RAILROAD AND SUPPLY SECTORS, BUT IT PROVIDED OVER \$10 MILLION IN ADDITIONAL SEVERANCE TAXES, \$3.5 MILLION IN GROSS PROCEEDS, AND OVER \$300,000 IN RITT TAXES.

THE COAL MARKET IS EXTREMELY COMPETITIVE AND VOLATILE, BUT FOR THE FIRST TIME IN THE OVER 12 YEARS THAT I HAVE BEEN REPRESENTING THE INDUSTRY, THE INDICATORS FOR BROADENED NEW MARKETS ARE POSITIVE AND EXCITING. BEFORE ANY MAJOR CUSTOMER WILL NEGOTIATE A LARGE CONTRACT FOR OUR COAL, THEY WILL TEST BURN THE COAL. IN THE PAST YEAR AND A HALF WE HAVE HAD TEST BURNS FROM TAIWAN TO SOUTH DAKOTA AND FROM WASHINGTON TO ONTARIO.

IT IS OUR, AND I BELIEVE YOUR, HOPE THAT THESE TESTS WILL LEAD TO SIGNIFICANT CONTRACTS. PLEASE ALLOW US TO CONTINUE TO DEVELOP THESE MARKETS FOR THE BENEFIT OF US ALL.

ALSO IN THE GOVERNOR'S AMENDMENTS TO HB 252 HE NEGLECTED TO LOWER THE TAX ON LIGNITE FROM 20% TO 10% IN 1991 AS THE LEGISLATURE HAD AGREED. TO MY KNOWLEDGE, THIS WAS A DRAFTING ERROR AND ONE WHICH WE ASK YOU NOW TO CORRECT.

DUE TO THE FACT THAT THE INCENTIVE EXPIRED ON DECEMBER 31, 1988, THE BILL HAS A RETROACTIVE EFFECTIVE DATE. WE APPRECIATE THE WILLINGNESS OF THE HOUSE IN EXPEDITING THE BILL AND IN CHAIRMAN BROWN'S WILLINGNESS TO CONTINUE THE PROCESS. THIS IS VERY IMPORTANT BECAUSE, AT THIS POINT IN TIME, WE CANNOT ASSURE OUR NEW CUSTOMERS THAT THE COAL WE ARE ASKING THEM TO BUY NOW WILL BE TAXED AT THE 15% RATE.

NEW SALES OF ONE-HALF MILLION TONS WILL MORE THAN NEGATE THE

Ex. 1 HB 4
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FISCAL IMPACT OF HB 4 AND OUR PAST EXPERIENCE HAS PROVEN THAT TO BE MORE PROBABLE THAN NOT.

ON BEHALF OF THOSE WHO OWN THE MINES, THOSE WHO WORK IN THEM, THOSE WHO HAUL THE COAL AND SUPPLY THE INDUSTRY, OUR SINCERE THANKS TO REP. HANSON AND ALL OF YOU FOR YOUR PAST SUPPORT AND WE ASK THAT YOU CONTINUE BY SUPPORTING HB 4.

HB 4

NAME: Ken Williams DATE: 2/1/89

ADDRESS: 16 E. Grant St

PHONE: 782-4233

REPRESENTING WHOM? Entech

APPEARING ON WHICH PROPOSAL: HB 4

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

AB4

2-1-185

NAME: Jim McNamee DATE: _____

ADDRESS: 2301 Colonial Dr

PHONE: 941-6223

REPRESENTING WHOM? MT. CMT Council

APPEARING ON WHICH PROPOSAL: H 25 4

DO YOU: SUPPORT? ☒ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

DATE 2/1/89

COMMITTEE ON Taxation

VISITORS' REGISTER

[illegible]

property, but also personal property. He said a substantial amount of the cases involved are personal property taxes and if they are eliminated, the bill just won't work.

Senator Gage felt the bill was too narrowly defined and needs to be broadened to cover some of the other commercial establishments and problems in the state. It is really designed to address only one problem, the Pierce Packing Co., in Billings.

Senator Eck felt it would be irresponsible of the committee to make the decision that net and gross proceeds were either real or personal property taxes. She felt the bill passed the House specifically to address one problem. If the committee tried to expand the bill to cover oil wells, defunct mines, etc. it would be a major revision, which would even require another hearing.

Senator Norman felt if it is passed it needs a termination date.

Amendments and Votes: Senator Crippen moved to amend the bill on page 14 as per amendment #3 on Exhibit 6. The motion CARRIED unanimously.

Senator Crippen moved to add a termination date of December 31, 1993 in a new section 16 and the corresponding title amendments. The motion CARRIED unanimously.

Recommendation and Vote: Senator Crippen moved House Bill 58 BE CONCURRED IN AS AMENDED. The motion CARRIED with Senator Gage voting no.

EXECUTIVE ACTION ON HOUSE BILL 4

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Norman moved House Bill 4 BE CONCURRED IN. The motion CARRIED unanimously.

ROLL CALL

TAXATION

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 2/3/89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BROWN	X		
SENATOR BISHOP	X		
SENATOR CRIPPEN	X		
SENATOR ECK	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR HALLIGAN	X		
SENATOR HARP	X		
SENATOR MAZUREK	X		
SENATOR NORMAN	X		
SENATOR SEVERSON	X		
SENATOR WALKER	X		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

February 3, 1989

MR. PRESIDENT:

We, your committee on Taxation, having had under consideration HB 4 (third reading copy -- blue), respectfully report that HB 4 be concurred in.

Sponsor: Hanson, M. (Anderson)

BE CONCURRED IN

Signed: _____

Bob Brown

Bob Brown, Chairman

*4/10/89
21-01
2/3/1*